

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

PAUL JONES

Plaintiff
V.

Civil Action No. 1:14-cv-10218-GAO

Defendants

EXPERIAN INFORMATION SOLUTION et al

**PLAINTIFF'S MEMORANDUM IN SUPPORT OF
MOTION FOR LEAVE TO FILE SECOND AMENDED VERIFIED PLEADING**

Plaintiff requests leave of court to file a second amended complaint, Pursuant to Federal Rule of Civil Procedure 15(a), Local Rule 7.1, and this Court's August 11, 2015, Scheduling Order, Plaintiffs Paul Jones ("Plaintiffs"), hereby respectfully submit this Memorandum in support of their Motion for Leave to File Amended Complaint.

Introduction

1. Plaintiff is Paul Jones & Defendant is Revenue Assistant Corporation aka Softloft (hereafter Revenue) at this time all other defendants have settled or have been dismissed from the complaint.
2. Plaintiff sued defendant Revenue for violations of the Telephone Consumer Protection Act (TCPA) and the Federal Debt Collection Practices Act (FDCPA, Massachusetts Unfair & Deceptive Trade Practices Act. & the Massachusetts Debt Collection Regulation Act 940 CMR 7.00.

3. Defendant filed an answer to the original complaint on 04/18/2014 and answered the amended complaint on 11/24/2014, plaintiff has until December 15, 2015 to amend his complaint (See Scheduling order doc # 166)

4. The plaintiff has discovered through discovery that there are other defendants that need to be added to the complaint.

5. Plaintiff called attorney Schneiderman to confer on October 1, 2015 at 2:36 pm, he did not answer his direct line, and I left a message, about 3:30 pm attorney Schneiderman called me back and we conferred, we discussed the Second Amended lawsuit in detail, I informed him of all the statues I was dropping as well as the new statues & defendants I was adding. After conferring with attorney Andrew Schneiderman we could not come to an agreement regarding the amended pleadings / Amended complaint.

Argument

6. Federal Rule of Civil Procedure 15(a) contemplates that a court will freely grant leave to file an amended complaint when the interests of justice so require. Additionally, the First Circuit has a liberal policy of allowing amendments to a complaint. Granting this motion allows Plaintiffs to describe in further detail the issues in this action, eliminating disputes over form that would waste this Court's time. Unless the opposing party can show prejudice, bad faith, or undue delay, a court should grant leave to file an amended pleading. *Foman v. Davis*, 371 U.S. 178, 182, 83 S.Ct. 227, 230 (1962). Leave to amend should be freely given when justice so requires. Fed. R. Civ. P. 15(a); *Walton v. Mental Health Ass 'n*, 168 F.3d 661, 665 (3d Cir. 1999).

7. The court should grant the filing of Plaintiff's amended pleading / Amended Complaint because it is Plaintiff's second amended complaint and is being amended to add new evidence that was flushed out during discovery.
8. Plaintiff is also dropping two counts and adding a count and properly pleading he is a consumer under MGL 159c 1-14, TCPA as well as the MGL 93a.
9. Revenue Assistance Corporation aka Softloft will not be prejudiced by Plaintiff's amended pleading / Amended Complaint as we are only in the discovery phase.
10. The more-specific dates and times of calls and statutes that were offended, by plaintiff amending his complaint he is so before the close of discovery and within the time frame to amend pleadings set out in the Scheduling Order.
11. Defendants' and plaintiffs discovery has only been through documents and interrogatories thus far--they (we) have not taken any depositions as of October 1, 2015.
12. The newly-alleged facts in the Second Amended Complaint are already well-known to Defendants and in their possession.
13. Plaintiffs is filing his amended pleading along with this motion.

Conclusion

14. Plaintiff is filing his second amended complaint so that the second amended complaint will reflect the newly discovered evidence that plaintiff received during the discovery phase, and to add new defendant and to drop a count and add a count, For these reasons, Plaintiff asks the court to grant his motion for leave to file the amended pleading.

Dated: October 1, 2015

Paul Jones /s/ PAUL JONES

572 Park Street

Stoughton, Ma 02072

888-655-3004

Pj22765@gmail.com

Andrew M. Schneiderman

Hinshaw & Culbertson LLP

28 State Street

24th Floor

Boston, MA 02109

617-213-7000

Fax: 617-213-7001

Email: aschneiderman@hinshawlaw.com

Ranen S. Schechner

Hinshaw & Culbertson LLP

28 State Street

24th Floor

Boston, MA 02109

617-213-7034

Fax: 617-213-7001

Email: rschechner@hinshawlaw.com

CERTIFICATE OF SERVICE

I certify that an original copy of the Plaintiffs Memorandum in Support for Leave to file

Amended Complaint and the Amended complaint was mailed to the below named party's on the date stated below.

Done this 1st day of October 2015

Paul Jones /s/ PAUL JONES

572 Park Street

Stoughton, Ma 02072

888-655-3004

Pj22765@gmail.com

Andrew M. Schneiderman

Hinshaw & Culbertson LLP

28 State Street

24th Floor

Boston, MA 02109

617-213-7000

Fax: 617-213-7001

Email: aschneiderman@hinshawlaw.com

Ranen S. Schechner

Hinshaw & Culbertson LLP

28 State Street

24th Floor

Boston, MA 02109

617-213-7034

Fax: 617-213-7001

Email: rschechner@hinshawlaw.com